

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-CR-197

BRITTNEY M. DORSHAK, et. al.,

Defendants.

ORDER

On January 6, 2009, after having received notice, AUSA Sanders failed to appear for a hearing regarding establishing conditions of release for the defendant Brittney M. Dorshak. AUSA Sanders failed to notify the court that he would need to reschedule the hearing and he failed to ensure another AUSA appeared in his place. Accordingly, the court ordered that Assistant United States Attorney Daniel H. Sanders show cause why sanctions should not be imposed for his failure to appear at the above-referenced hearing.

Later in the day on January 6, AUSA Sanders appeared in chambers to explain his absence. He has also filed a written response as required by the court. AUSA Sanders has apologized for his failure to appear and accepts full responsibility for his error. He further indicates the calendaring steps he has instituted in an effort to prevent similar recurrences.

The court accepts the apology from AUSA Sanders. Like other assistants in the office of the U.S. Attorney, Attorney Sanders has always comported himself in a very professional manner in all dealings before this court. However, one of the keystones of professionalism is appearing in court as required. Failure to appear indicates a lack of respect for the court and the opposing party, even

if not intended. Failure to appear could also have significant adverse consequences, depending on the nature of the hearing. Fortunately for the government in this case, the establishment of appropriate conditions of release for the defendant were not a contested matter.

Had AUSA Sander's failure occurred some time ago, this court would probably have accepted his apology on the belief that there would be no repeat transgressions. But this conduct has occurred within one month of an admonition this court sent to the U.S. Attorney regarding such failures by assistants in his office. On December 8, 2008, this court advised the then United States as follows:

This court expects that the government will have assistants at every hearing. It is therefore essential that those in charge make certain that proper calendaring procedures are in place to avoid what happened today. If an assistant has a conflict, that should be promptly noted and other arrangements for coverage made. This court had a courtesy practice of contacting your office when the assistant assigned to the case was not present, in order to have a substitute sent to cover the hearing. As of today, that practice will cease. If an assistant U.S. Attorney fails to appear, appropriate sanctions will be imposed.

In response, the United States Attorney promptly responded indicating that he regretted that his office forfeited the court's good will and stated that he would inform the staff. Also responding was the Chief of the Criminal Division of the United States Attorney's Office who stated that he had informed the criminal staff and "expects that they will practice accordingly." Despite this follow-up, AUSA Sanders failed to appear. The court's warning was explicit in that "appropriate sanctions will be imposed." Under the attendant circumstances, simply accepting an apology is not sufficient. If the warning issued by the court is to have any significance, a sanction must be imposed. Therefore, the court orders that, within the next 30 days, AUSA Sanders pay the sum of \$50.00 to the Clerk of Court, to be deposited in the Pro Bono Fund of the Court.

SO ORDERED.

Dated at Milwaukee, Wisconsin this 12th day of January 2009.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge